



# Texas Department of Insurance

## Division of Workers' Compensation

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## Memorandum

To: Texas Workers' Compensation System Participants

From: Rod Bordelon, Commissioner of Workers' Compensation

Date: August 28, 2013

**Subject: REMINDER — Pharmacy Closed Formulary Status and Legacy Claim Implementation**

In January of 2011 the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) adopted its pharmacy closed formulary rules. The adopted closed formulary rules included a bifurcated application timeframe for initial and existing claims. The initial phase of the applicability of the closed formulary, which applies to claims with dates of injury occurring on or after September 1, 2011, is fully implemented.

Please note that as of **September 1, 2013**, all outpatient certified workers' compensation health care network (network) and non-network injured employee claims are subject to the closed formulary. The TDI-DWC reminds workers' compensation system participants that the Outpatient Open Formulary remains in effect for certified network and non-network legacy claims until then.

System participants should be cognizant of several requirements associated with the pharmacy closed formulary.

- No proprietary or second tier pharmacy formulary may be used by the insurance carrier or its agents. **Only** the closed formulary as defined by TDI-DWC rules is to be applied for claims in the Texas workers' compensation system.
- No preauthorization is required for prescriptions for legacy claims until **September 1, 2013**. After **September 1, 2013**, preauthorization is required for all prescriptions that are excluded from the closed formulary unless there is a documented agreement between the insurance carrier and the prescribing doctor for a legacy claim.
- The pharmacy closed formulary includes all FDA-approved drugs, except for investigational and experimental drugs and excludes drugs listed as "N" drugs (or "not recommended" drugs) in Appendix A of TDI-DWC's adopted treatment guidelines – *The Official Disability Guidelines: Treatment in Workers' Comp*, published by the Work Loss Data Institute.
- Prescriptions that do not require preauthorization (i.e., prescriptions that are included in the closed formulary) are subject to retrospective review of medical necessity by a certified or registered utilization review agent.
- However, if an agreement was made between an insurance carrier and a prescribing doctor for a legacy claim, then any health care provided as a result of the agreement is not subject to retrospective review of medical necessity.
- Insurance adjusters are not licensed to make medical necessity decisions or conduct utilization review functions.

For additional information on implementing the closed formulary to legacy claims, contact the TDI-DWC by calling *Comp Connection for Health Care Providers* at 1-800-372-7713 and selecting option 3 or e-mailing to [medben@tdi.texas.gov](mailto:medben@tdi.texas.gov).